IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 23152 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT. JUSTICE ABHILASHA KUMARI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

NARENDRAKUMAR MEHTA - Petitioner
Versus
TORRENT POWER A.E.C. LTD. & 1 - Respondents

==========

Appearance :
MRS NISHA M PARIKH for Petitioner.
NOTICE SERVED for Respondent(s) : 1 - 2.
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.

==========

CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

Date : 27/12/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

Rule. The endorsement on the board indicates that both the respondents are duly served with notice for final disposal of the petition. However, none of the respondents has appeared either through its Lawyer or through its constituted agent, nor any of them has filed reply controverting the averments made in the petition. Therefore, this Court is of the opinion that it is not necessary for the petitioner to effect service of notice of rule issued in the instant petition upon the respondents. Having regards to the facts of the case, the petition is taken up for final disposal today.

2. By filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ or order, directing the respondent No.1 i.e. The Torrent Power A.E.C.Ltd., to grant three electric connections to the Industrial Units constructed by the petitioner. The petitioner has also prayed to direct the respondent No.2 to

grant Building Use Permission in respect of non-residential Units constructed by the petitioner.

3. The petitioner i.e. Narendrakumar Mehta is Managing Director of Ajit Reality Pvt.Ltd. Ajit Reality Pvt.Ltd. was the owner of Block No.83/A + 83/B/3+5/2, Type-C of Final Plot No.83/A + 83/B/3+5 of T.P.Scheme of Rakhial. The Managing Director i.e. the petitioner, of Ajit Reality Pvt.Ltd. was desirous of developing the land belonging to the Company. Therefore, he applied to Ahmedabad Municipal Corporation for final development permission. The record shows that the final development permission was granted to the petitioner on December 13, 2004, which is quite evident from the contents of document produced at Annexure-B to the petition. The case of the petitioner is that after obtaining development permission, the petitioner has constructed three Industrial Units. After construction of the Industrial Units was over, it was the duty of the petitioner to obtain Building Use Permission and

thereafter to apply to the respondent No.1 for supply of electric connection to the Units constructed by him. However, without obtaining Building Use Permission, the petitioner applied to the respondent No.1 for supply of electric connections to the Units constructed by him. The said request has been turned down by the respondent No.1, which is quite evident from the contents of letter dated September 1, 2006 addressed by G.M. (Distribution) to the petitioner, a copy of which is produced by the petitioner at Annexure-A to the petition. By the said communication, the petitioner has been called upon to produce either Building Use Permission or conditional order of the High Court to enable the respondent No.1 to supply electricity connection to the Units constructed by him. Under the circumstances, the petitioner has filed the instant petition and claimed reliefs to which reference is made earlier.

4. The petition was placed for admission hearing

on November 13, 2006 and after hearing the learned Counsel for the petitioner, notice for final disposal of the petition was issued. As observed earlier, both the respondents are duly served, but, none of them has appeared before the Court nor contested the petition.

5. This Court has heard Ms.Nisha M.Parikh, learned Counsel for the petitioner and considered the documents forming part of the petition. Having regard to the facts of the case, this Court is of the opinion that interest of justice would be served if the following directions are issued:

(1) The petitioner will approach the Ahmedabad Municipal Corporation for obtaining Building Use Permission within thirty days from today with a proper application/form/format and by paying requisite fee, if any.

(2) The Ahmedabad Municipal Corporation is directed to take decision on the application, which may be submitted by

the petitioner, within four months from the date of receipt of the same.

(3) The petitioner shall apply to the respondent No.1., i.e. Torrent Power AEC Limited, for providing electricity connection to three non-residential Units constructed by him with a proper application/form/format and by paying charges within a week.

(4) The respondent No.1, i.e. Torrent Power AEC Limited, is directed to provide electricity connection to three non-residential Units constructed by the petitioner within one month on usual terms and conditions.

(5) In case the Ahmedabad Municipal Corporation is not approached by the petitioner for obtaining Building Use Permission within the period stipulated in this order, the Ahmedabad Municipal Corporation shall inform the Torrent Power AEC Limited to disconnect the electricity supply made available to three non-residential Units constructed by the petitioner and in such an eventuality, it would be open to the Torrent Power AEC Limited to disconnect

the electricity supply provided to the non-residential Units constructed by the petitioner within a period of fifteen days.

(6) In case the Ahmedabad Municipal Corporation does not grant Building Use Permission, it will ask the Torrent Power AEC Limited to disconnect the electricity supply provided to three non-residential Units constructed by the petitioner within a period of fifteen days and, thereupon, it would be open to the Torrent Power AEC Limited to disconnect the electricity supply provided to the non-residential Units constructed by the petitioner.

(7) The petitioner shall file an Undertaking before the Torrent Power AEC Limited to the effect that in the event the Building Use Permission is not granted by the Ahmedabad Municipal Corporation, the petitioner will have no objection to disconnection of electricity supply provided to three non-residential Units constructed by him. This Undertaking shall be filed along with the application/form/format meant for the purpose.

Rule is made absolute subject to above referred to directions. There shall be no order as to costs. Direct Service is permitted.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)

(patel)